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ABORIGINAL SELF-GOVERNMENT

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ABORIGINAL SELF-GOVERNMENT

INTRODUCTION

Section 35 of the *Constitution Act, 1982* recognizes and affirms the existing Aboriginal and treaty rights of Indians, Inuit and Métis, without defining those rights.[1] The status of Aboriginal self-government under that provision has been a matter of ongoing debate.

In 1983, the Penner Committee on Indian Self-Government recommended that First Nations' right of self-government be explicitly stated in the Constitution, and that the federal government recognize a distinct First Nations order of government and work toward implementing self-government.[2] From 1983 to 1987, intergovernmental negotiations to define the content of a constitutional right of Aboriginal self-government proved unsuccessful. Under the failed 1992 Charlottetown Accord, constitutional amendments would have included recognition of an inherent Aboriginal right of self-government. Over this period, federal policy took a community-based approach to negotiating self-government, and proposed a tripartite process for Métis and non-Status Indians. Revisions to comprehensive land claims policy in 1986 included the possibility of negotiating broader self-government.

In 1995, general political acceptance of the concept led to federal recognition of the inherent right of Aboriginal self-government as an existing section 35 right. Under this revised policy, negotiated self-government rights might attain section 35 protection as treaty rights in new treaties, as part of comprehensive land claim agreements or as additions to existing

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1 *Constitution Act, 1982* (Schedule B to the *Canada Act, 1982*, (U.K.) 1982 c. 11), Part II: "Rights of the Aboriginal Peoples of Canada," http://laws.justice.gc.ca/en/const/9.html#anchorsc:7-bo-ga:l_II. Subsections 35(1) and (2) read:

> (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.
>
> (2) In this Act, "aboriginal peoples of Canada" includes the Indian, Inuit and Métis peoples of Canada.

2 House of Commons, Special Committee on Indian Self-Government, *Indian Self-Government in Canada: Report of the Special Committee* ("Penner Report"), 1983. See also Department of Indian Affairs and Northern Development, *Response of the government to the report of the Special Committee on Indian Self-Government*, 1984.

treaties, but might also be implemented in other, non-treaty, forms. The policy outlined differing approaches to self-government for First Nations, Inuit and Métis, stipulating that provincial/territorial governments must be parties to agreements in which subject matters addressed fall within their jurisdiction.

Notwithstanding this significant policy development well over a decade ago, unanimity among Aboriginal groups and governments on the nature and scope of self-government powers and on the range of section 35 protection remains elusive.

REPORT OF THE ROYAL COMMISSION ON ABORIGINAL PEOPLES AND GOVERNMENT RESPONSE

In its 1996 Final Report, the Royal Commission on Aboriginal Peoples set out an approach to self-government built on the recognition of Aboriginal governments as one of three orders of government in Canada. The Report recommended, *inter alia*, passage of an *Aboriginal Nations Recognition and Government Act*; elimination of the Department of Indian Affairs and establishment of a new Department of Aboriginal Relations to negotiate and manage agreements with Aboriginal nations; and passage of an *Aboriginal Parliament Act* to establish a representative body of Aboriginal peoples that would evolve into a House of First Peoples and become part of Parliament.[3]

The federal government's 1997 response in *Gathering Strength: Canada's Aboriginal Action Plan* centred on four objectives, including strengthening Aboriginal governance. The government stated that it would consult Aboriginal organizations and the provinces and territories on "appropriate instruments" for the recognition of Aboriginal governments; focus on improving the capacity of First Nations to negotiate and implement self-government; and work with Treaty First Nations to achieve self-government within the context of the treaty relationship.[4]

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3 Royal Commission on Aboriginal Peoples, *Report of the Royal Commission on Aboriginal Peoples*, Volume II, Part One, Chapter 3, "Governance," 1996, http://www.collectionscanada.gc.ca/webarchives/20071115053257/ainc-inac.gc.ca/ch/rcap/sg/sgmm_e.html.

4 Minister of Indian Affairs and Northern Development, *Gathering Strength: Canada's Aboriginal Act Plan*, 1997.

THE PROGRESS OF SELF-GOVERNMENT

A. 1975–1995

Many years of negotiations produced relatively few self-government arrangements. They include those for the following:

- the Cree, Naskapi and Inuit of Northern Quebec under the 1975 *James Bay and Northern Québec Agreement* and the 1978 *Northeastern Québec Agreement*, and legislated in the *Cree-Naskapi (of Quebec) Act*;[5]
- the Sechelt Indian Band of British Columbia under the 1986 *Sechelt Indian Band Self-Government Act*;[6] and
- seven Yukon First Nations, pursuant to a 1993 umbrella final agreement[7] in which land claim or treaty aspects and self-government aspects were to be implemented in separate agreements, the latter being legislated in the *Yukon First Nations Self-Government Act*.[8]

None of these pre-1995 self-government arrangements is explicitly "covered" by section 35. Nor are four additional Yukon self-government agreements under the umbrella final agreement that took effect from 2002 to 2005. The 1995 policy does leave room for possible negotiated constitutional protection for aspects of pre-1995 arrangements.

Four additional comprehensive land claim agreements (LCA) within the meaning of section 35 that were concluded prior to 1995 north of the 60th parallel do not define self-government powers, while making some provision for subsequent self-government negotiations. Post-1995 self-government arrangements are either in place or under negotiation for each of the affected groups: the Inuvialuit (1984 LCA, NWT); the Gwich'in (1992 LCA, NWT); the Inuit of Nunavut (1993 LCA); and the Sahtu Dene and Métis (1994 LCA, NWT).

B. Implementing the Inherent Right Policy: Developments in British Columbia

The government's inherent right policy was first directly implemented in the 1998 tripartite *Nisga'a Final Agreement*, the first modern treaty in British Columbia and the first in the country to explicitly extend section 35 protection to self-government rights as well as land rights

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5 S.C. 1984, c. 18, R.S. c. C-45.7.

6 S.C. 1986, c. 27, R.S. C-S-6.6.

7 *Umbrella Final Agreement between the Government of Canada, the Council for Yukon Indians and the Government of the Yukon*, 1993, http://www.ainc-inac.gc.ca/al/ldc/ccl/fagr/ykn/umb/umb-eng.pdf.

8 S.C. 1994, c. 35, R.S. C. Y-2.6.

in the same agreement.[9] Critics argued that because legislative powers were exhaustively distributed by sections 91 and 92 of the *Constitution Act, 1867*, the self-government provisions in the agreement established an unconstitutional third order of government. In 2000, a constitutional court challenge to the agreement by the BC Liberal Opposition was rejected by the BC Supreme Court.[10] A second challenge by Nisga'a opponents to the treaty is ongoing.[11] Since the agreement was ratified, Nisga'a legislators have exercised their jurisdiction in numerous laws and regulations.

In the intervening period, two treaties have been concluded and four additional First Nations groups are in the final stages of negotiation under the tripartite British Columbia Treaty Commission (BCTC) Process.[12] Like the Nisga'a agreement negotiated outside that process, the constitutionally protected Tsawwassen[13] and Maa-nulth[14] treaties exhaustively set out the self-government rights of those First Nations groups.[15] The majority of outstanding agreements-in-principle, on the other hand, provide for some self-government powers to be set out in eventual section 35 treaties, and for other legislative authority to be defined in separate, non-treaty, "governance" agreements.[16] It remains to be seen whether the latter approach is ultimately reflected in the final agreements.

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9 *Nisga'a Final Agreement*, 1998, http://www.ainc-inac.gc.ca/al/ldc/ccl/fagr/nsga/nis/nis-eng.pdf.

10 *Campbell et al.* v. *Attorney General of British Columbia, the Attorney General of Canada and the Nisga'a Nation et al.*, 2000 BCSC 1123, http://www.courts.gov.bc.ca/jdb-txt/sc/00/11/s00-1123.htm.

11 *House of Sga'nisim* v. *Canada (Attorney General)*, 2007 BCCA 483, http://www.courts.gov.bc.ca/jdb-txt/ca/07/04/2007bcca0483.htm.

12 The Sechelt Indian Band, which already exercises some self-government authority under the previously mentioned non-treaty arrangement, and which was the first BC First Nations community to have concluded an agreement-in-principle under the BCTC process, announced its withdrawal from the treaty process in November 2009. Information about the BCTC may be obtained on the BC Treaty Commission website at http://www.bctreaty.net/files/about_us.php.

13 *Tsawwassen First Nation Final Agreement*, 2007, http://www.ainc-inac.gc.ca/ai/scr/bc/trts/agrmts/tfn/fa/tfnfa-eng.pdf. The agreement was ratified by Parliament in 2008 and took effect in April 2009.

14 *Maa-nulth First Nations Final Agreement*, 2009, http://www.ainc-inac.gc.ca/ai/scr/bc/trts/agrmts/mna/fa/mnafa-eng.pdf. The Maa-nulth Agreement was ratified by Parliament in June 2009; the date of its taking effect has yet to be determined.

15 In 2007, a third group, the Lheidli T'enneh Band, rejected a final treaty settlement providing for the same approach and has not yet determined whether to hold a second ratification vote.

16 See, for example, the Yale First Nation Agreement-in-Principle, Chapter 3, "Governance," 2006, http://www.gov.bc.ca/arr/firstnation/yale/down/yale_aip_final_english_version_web.pdf.

The extension of section 35 protection to self-government powers through the treaty process and the nature of those powers remain controversial. For example, critics have raised concerns about treaty provisions giving First Nations laws precedence over federal and/or provincial legislation in relation to certain subject matters, and the perceived lack of treaty terms guaranteeing representation of non-First Nations residents on settlement lands.

Over 60 First Nations groups in the treaty process that are signatory to a 2006 Unity Protocol Agreement see negotiation of governance powers as among the key barriers to progress in the BCTC regime that require resolution if the treaty process is to advance. The tripartite Common Table process initiated by Unity Protocol members to address these obstacles, and overseen by the BCTC, has, thus far, not produced substantive results in this direction.[17]

The BCTC scheme is not the sole avenue for BC First Nations to negotiate some form of self-government. The bilateral *Westbank First Nation Self-Government Agreement* concluded in 2000, and ratified by Parliament in 2004, specifically provides that it is not a treaty, and would be superseded by a trilateral treaty with governance provisions.[18] It is the first self-government agreement without a land component under the federal inherent right policy. The agreement expands the First Nation community's law-making authority beyond the by-law jurisdiction set out in the *Indian Act*. Westbank First Nation announced its withdrawal from the treaty process in November 2009, citing significant differences with government negotiators on key issues.

In another non-treaty process related to governance, the First Nations Leadership Council and the Province of British Columbia agreed, in the 2005 "The New Relationship" document, to "a new government-to-government relationship based on respect, recognition and accommodation of aboriginal title and rights."[19] Viewing recognition legislation as a key priority of the New Relationship process, the parties developed a discussion paper, released in February 2009, on an eventual legislative package to be called the *Recognition and Reconciliation Act*. The document proposed that the eventual bill would, among other things, override provincial statutes, including those related to land use and resource management, and

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17 Additional information on developments related to the Common Table initiative may be obtained in the BC Treaty Commission's 2009 annual report, at http://www.bctreaty.net/files/pdf_documents/2009_Annual_Report.pdf.

18 *Westbank First Nation Self-Government Agreement*, 2000, http://www.ainc-inac.gc.ca/al/ldc/ccl/fagr/wfn/wfn-eng.pdf.

19 *The New Relationship*, British Columbia Ministry of Aboriginal Relations and Reconciliation, http://www.newrelationship.gov.bc.ca/shared/downloads/new_relationship.pdf.

would reconstitute the province's existing First Nations communities into 20 to 30 "indigenous nations." These aspects of the scheme, among others, were opposed by industry and First Nations critics respectively. In August 2009, an assembly of the province's First Nations chiefs formally rejected the proposal, and members of the First Nations Leadership Council withdrew their initial support. Both the Council and the government came under criticism for not having consulted their constituencies sufficiently about the initiative. It is not clear whether a refashioned initiative is to be anticipated. Recognition legislation would be precedent-setting if enacted.

C. First Nations–Federal Crown Political Accord on the Recognition and Implementation of First Nations Governments

In May 2005, the federal government and the Assembly of First Nations concluded a political accord that included establishing a joint steering committee to work cooperatively on a number of policy fronts, including self-government.[20] The accord committed the committee to consider approaches "for the recognition and implementation of First Nation governments, including … assessment of the potential for a 'First Nation Governments Recognition Act.'" The joint steering committee met in November 2005, agreeing that First Nations governments would be among targeted priorities. It is unclear whether or to what degree the committee's work has proceeded or subsequent meetings have been held.[21]

OVERVIEW OF DEVELOPMENTS

Self-government negotiations are currently in progress in virtually every jurisdiction across the country.[22] The self-government negotiation context covers a range of comprehensive and sectoral initiatives, as well as "stand-alone" processes. Each negotiation

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20 *A First Nations – Federal Crown Political Accord on the Recognition and Implementation of First Nations Governments*, May 2005, http://www.ainc-inac.gc.ca/ai/mr/nr/m-a2005/02665afn-eng.asp.

21 Documentation of the Department of Indian Affairs and Northern Development suggests that the committee has not been dissolved but does not refer to recent policy work in the area of land claims, another priority subject of the joint steering committee established under the *A First Nations – Federal Crown Political Accord on the Recognition and Implementation of First Nations Governments*. See Department of Indian Affairs and Northern Development, *General Briefing Note on Self-Government and Claims Policy of Canada and the Status of Claims*, February 2009, p. 4.

22 Many of the regional developments outlined under this heading are drawn from Department of Indian Affairs and Northern Development, *General Briefing Note on Self-Government and Claims Policy of Canada and the Status of Claims,* February 2009, pp. 20 et seq.

process is typically protracted. None of the sectoral or stand-alone and not all comprehensive negotiations entail constitutional dimensions under section 35. As suggested above, in those regions without historical land cession or modern treaties in place, including most of British Columbia, the Atlantic provinces, and large areas of Quebec, self-government discussions may and do take place within the broader land claim process.

- As discussed, the 1998 Nisga'a agreement is both a comprehensive land claim and self-government agreement with explicit treaty status under section 35.

- Unlike land claim-related talks, a "stand-alone" self-government negotiation is one in which no land component is involved. The 2000 Westbank agreement is an example of this form of accord.

- Sectoral negotiations relate to limited self-governing jurisdiction over specific subject matters such as education, land management or family services. For example, in 1999 Parliament enacted legislation giving effect to the *Framework Agreement on First Nation Land Management* between Canada and 14 First Nations communities. Numerous additional communities have since signed on to this sectoral agreement and been scheduled in the *First Nations Land Management Act*.[23] In 1997, 13 Nova Scotia Mi'kmaq communities and Canada concluded an education agreement transferring jurisdiction over education on-reserve to the communities. Parliament ratified the *Mi'kmaq Education Act* in 1998.[24] The 2006 *First Nations Jurisdiction over Education in British Columbia Act* provides for the negotiation of education agreements with individual First Nations and establishes a First Nations Education Authority.[25]

The conclusion of each form of self-government agreement with First Nations people has the effect of removing the affected communities from the application of at least some *Indian Act* provisions. The extent to which the *Indian Act* ceases to apply depends, generally speaking, on how broadly based the self-government agreement is.

An additional point worth noting concerns the *Canadian Charter of Rights and Freedoms*. Self-government agreements typically stipulate explicitly that the Charter applies to the Aboriginal signatory. In this regard, the scope of the Charter's section 25 "shield" of Aboriginal and treaty rights, including those set out in self-government or other agreements with self-government components, remains a topic of discussion.

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23 S.C. 1999, c. 24.

24 S.C. 1998, c. 24.

25 S.C. 2006, c. 10.

The following paragraphs are intended to illustrate the variety of negotiations in recent years across the country and should not be considered exhaustive of the range of processes under way.

A. Northwest Territories

In 2003, the Dogrib Treaty 11 Council and the federal and territorial governments signed the Tłı̨chǫ agreement, the first combined land claim and self-government section 35 agreement in the Northwest Territories.[26] It provides for a regional Tłı̨chǫ Government and public local governments for four Tłı̨chǫ communities, with majority Tłı̨chǫ representation on each. Federal ratification legislation was adopted in 2005.[27] In addition to processes to supplement existing land claim agreements, less advanced negotiations are ongoing with a number of Dene and Métis groups with outstanding claims to lands and self-governing authority.[28]

B. Newfoundland and Labrador

In 2005, Parliament ratified the Labrador Inuit Land Claims Agreement[29] between the Labrador Inuit Association and federal and provincial governments.[30] This section 35 agreement, like the predecessor Nisga'a and Tłı̨chǫ agreements, includes a self-government component. For the Labrador Inuit, self-government structures under the agreement involve Inuit exclusive regional government and public community governments. The province's two Innu communities are engaged in tripartite self-government discussions within a broader land claim process, while negotiations are ongoing with the Miawpukek First Nation of Conne River following the 2005 conclusion of a stand-alone self-government framework agreement.

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26 *Land Claims and Self-Government Agreement among the Tłı̨chǫ and the Government of the Northwest Territories and the Government of Canada*, 2003, http://www.ainc-inac.gc.ca/al/ldc/ccl/fagr/nwts/tliagr/tliagr-eng.pdf.

27 *Tłı̨chǫ Land Claims and Self-Government Act*, S.C. 2005, c. 1.

28 They include the Deh Cho First Nations, the Akaitcho Treaty 8 Dene and the Northwest Territory Métis Nation. For an overview of the current status of all self-government negotiations in the Northwest Territories, see the "Current Negotiations" link on the Department of Aboriginal Affairs and Intergovernmental Relations website at http://www.daair.gov.nt.ca/_live/pages/wpPages/Selfgovernmentlandclaims.aspx.

29 *Land Claims Agreement between the Inuit of Labrador and Her Majesty the Queen in Right of Newfoundland and Labrador and Her Majesty the Queen in Right of Canada*, 2005, http://www.ainc-inac.gc.ca/al/ldc/ccl/fagr/labi/labi-eng.pdf.

30 *Labrador Inuit Land Claims Agreement Act*, S.C. 2005, c. 27.

C. Nova Scotia

Further to the "Made-in-Nova Scotia process" that began with a 2002 umbrella agreement, the *Mi'kmaq–Nova Scotia–Canada Framework Agreement* of 2007[31] includes governance among subject matters for negotiation, as do current agreement-in-principle negotiations.

D. New Brunswick

In 2007, a trilateral umbrella agreement dealing with land claim and self-government matters was negotiated with representatives of the province's 15 Mi'kmaq and Maliseet First Nations.

E. Quebec

Although the 1975 *James Bay and Northern Québec Agreement* (JBNQA) provided the Inuit of Nunavik – the part of Quebec north of the 55th parallel – a certain degree of administrative autonomy, they have long sought greater institutional unity and enhanced self-government capacity. In December 2007, the parties signed an agreement-in-principle outlining a new form of public regional government.[32] The Nunavik Regional Government, to be created by provincial legislation, will merge and exercise the authority of the region's primary public structures – the Kativik Regional Government, the Kativik School Board, and the Nunavik Regional Health and Social Services Board – that were established under the JBNQA. Processes leading to a final agreement are ongoing.[33]

Negotiations to address longstanding concerns of the James Bay Cree over federal implementation of the JBNQA, including in matters of governance, led to the July 2007 conclusion of the bilateral 20-year *Agreement Concerning a New Relationship between the*

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31 *Mi'kmaq–Nova Scotia–Canada Framework Agreement*, 2007, http://www.ainc-inac.gc.ca/al/ldc/ccl/agr/nsf/nsfa-eng.asp.

32 *Agreement in Principle Concerning the Amalgamation of Certain Public Institutions and Creation of the Nunavik Regional Government*, 2007, http://www.nunavikgovernment.ca/en/documents/AIP%20-%20EP%20trilingual%20version.pdf.

33 See *Proposed Timeline for the Creation of the Nunavik Regional Government*, http://www.nunavikgovernment.ca/en/documents/NRG_Timeline_En_Oct_09.pdf.

Government of Canada and the Cree of Eeyou Istchee.[34] Approved by Cree communities in an October 2007 referendum and signed by the parties in February 2008, the New Relationship Agreement took effect in March 2008. It sets out a two-phased approach to enhancing Cree governance authority: 1) empowering the Cree Regional Authority to make by-laws with regional scope and to assume certain federal responsibilities under the JBNQA, and 2) negotiation of a self-government agreement and establishment of a Cree Nation Government. In June 2009, Parliament enacted legislation, which is not yet in effect, reflecting Canada's phase 1 undertaking;[35] phase 2 negotiations are under way.

Other Quebec First Nations communities involved in self-government processes include the Atikamekw Nation Council, whose comprehensive land claim and self-government negotiations are progressing toward an agreement-in-principle. Nine Innu communities in three groups are at various stages in protracted tripartite land claim and self-government processes at separate tables. In 2004 the Mamuitun mak Nutashkuan signed an "Agreement-in-Principle of a General Nature."[36] Early tripartite discussions that include a self-government component are underway under the September 2008 *Niganita'suatas'gl Ilsutaqann Agreement* among the Mi'kmaq of Quebec, Quebec and Canada.[37]

F. Ontario

Not all self-government negotiations conclude successfully. In 2005, four central Ontario First Nations communities rejected the bilateral Anishnaabe Government Agreement providing for significantly enhanced law-making powers that had been negotiated on their behalf by the Anishnaabeg United Councils. The Anishnaabe Government Agreement would have been the first stand-alone self-government agreement in the province, and the first in the country to provide for a regional form of government.

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34 *Agreement Concerning a New Relationship between the Government of Canada and the Cree of Eeyou Istchee,* 2008, http://www.ainc-inac.gc.ca/al/ldc/ccl/agr/croei/agrnr-eng.asp.

35 *An Act to amend the Cree-Naskapi (of Quebec) Act*, S.C. 2009, c. 12.

36 *Agreement-in-Principle of General Nature between the First Nations of Mamuitun and Nutashkuan and the Government of Quebec and the Government of Canada*, 2004, http://www.collectionscanada.gc.ca/webarchives/20071115153200/ainc-inac.gc.ca/pr/agr/mamu/index_e.html.

37 *Niganita'suatas'gl Ilsutaqann Agreement*, 2008, http://www.ainc-inac.gc.ca/al/ldc/ccl/fagr/que/umb/umb-eng.asp.

Numerous bilateral sectoral negotiations are under way in the province. The Anishinabek Nation, representing over 40 First Nations communities, is signatory to a 2002 agreement-in-principle providing for law-making authority over on-reserve kindergarten to Grade 12 education. In addition, the Anishinabek Nation Agreement-in-Principle With Respect to Governance, signed in February 2007, provides for the establishment of an Anishinabek Nation government, and for community law-making authority in core areas such as leadership selection and the internal *operations* of government. Negotiations toward final governance and education agreements are underway. The Nishanawbe-Aski Nation, representing 49 additional northern communities is also involved in advanced governance and education negotiations. Negotiations for a final agreement on education are proceeding with Fort Frances Tribal Area First Nations as well.

G. Manitoba

The unique 1994 Manitoba Framework Agreement Initiative (FAI) of the Assembly of Manitoba Chiefs and the Minister of Indian Affairs provided for a 10-year process to both dismantle DIAND's Manitoba region and restore self-governing jurisdiction to the province's Treaty First Nations. Accordingly, FAI tables were established for negotiation of both sectoral and comprehensive self-government arrangements. Slower than anticipated progress was attributed by some to the complexity of issues under negotiation as well as difficulties associated with the process and priority-setting. In January 2007, the Assembly of Manitoba Chiefs voted to dissolve the agreement, citing an absence of federal commitment to the process.

In 2001, Canada and the communities of the Sioux Valley Dakota Nation concluded a comprehensive bipartite agreement-in-principle and a tripartite agreement-in-principle with Manitoba. The terms of these agreements resemble those of the Meadow Lake Tribal Council (Saskatchewan) agreement-in-principle, but without reference to historical treaties. Sioux Valley communities are the first in Manitoba to reach this stage of self-government negotiations. Negotiations toward a final agreement continue.

H. Saskatchewan

In 1996, the Federation of Saskatchewan Indian Nations and federal and provincial governments launched the "Common Table" forum, as well as Governance, Fiscal and Treaty Tables, to enable discussion of a range of treaty-related issues and development of new

governance arrangements for the province's Treaty First Nations communities. In 2000, the parties signed the *Framework for Governance of Treaty First Nations* to guide formal negotiations toward that end.[38] Under this Framework, any new governance agreement would not replace existing treaties; its constitutional status would be among issues to be decided by the parties. Subsequent to the initialling of draft bilateral and trilateral agreements-in-principle in 2003, negotiations appear to have hit an impasse over the outstanding issue of treaty implementation; the current status of the governance initiative is unclear. It seems the Treaty Table remains active and that the parties recently agreed to review and possibly revise the Common Table concept.[39]

In 2001, Canada and seven First Nations communities of the Meadow Lake Tribal Council signed a comprehensive collective agreement-in-principle that set the terms for negotiation of a final self-government agreement with First Nations on-reserve law making authority over a range of matters including land management and governance. It was the first such agreement to be concluded within the framework of historical western numbered treaties, and provides that the final agreement will be negotiated accordingly. The agreement-in-principle further stipulates that the parties would discuss the final agreement's section 35 status. A concurrent tripartite agreement-in-principle provided for Saskatchewan's recognition of and concurrence with Meadow Lake governance arrangements under the final agreement. Negotiations are ongoing toward a final agreement, which would be the first in the province.

In 2003, the Métis Nation of Saskatchewan, Canada and Saskatchewan extended a tripartite Memorandum of Understanding aimed at achieving cooperative consideration of a number of issues, including Métis governance of Métis communities. No further developments appear to have been reported.

I. Off-reserve/Urban Areas

Various approaches have examined how self-government for Aboriginal people off-reserve and in urban areas might be put into practice. They include forms of public

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38 *Framework for Governance of Treaty First Nations between Her Majesty in Right of Canada, Her Majesty in Right of Saskatchewan and Federation of Saskatchewan Indian Nations*, 2000, http://www.fnmr.gov.sk.ca/documents/fsin/fsin-ct-process2000.pdf.

39 Minutes of the 10 June 2008 meeting of the parties with the Office of the Treaty Commissioner of Saskatchewan: http://www.otc.ca/siteimages/ROD%2006-10-08.doc.

government or links to land-based Aboriginal governments. The issue is complicated by questions relating to federal/provincial responsibility for off-reserve Aboriginal people.

SELECTED REFERENCES

A. Library of Parliament Publications

Hurley, Mary C. *The Nisga'a Final Agreement*. PRB 99-2E. Parliamentary Information and Research Service, Library of Parliament, Ottawa, September 2001, http://www2.parl.gc.ca/Content/LOP/ResearchPublications/prb992-e.htm.

———. *Settling Comprehensive Land Claims*. PRB 09-16E. Parliamentary Information and Research Service, Library of Parliament, Ottawa, October 2009, http://www2.parl.gc.ca/Content/LOP/ResearchPublications/prb0916-e.htm.

———. *The Indian Act*. PRB 09-12E. Parliamentary Information and Research Service, Library of Parliament, Ottawa, November 2009, http://www2.parl.gc.ca/Content/LOP/ResearchPublications/prb0912-e.htm.

B. Other Publications

Bélanger, Yale D., ed. *Aboriginal Self-Government in Canada: Current Trends and Issues*. Purich Publishing, Saskatoon, 2008.

Bell, Catherine, and Robert Paterson, eds. *Protection of First Nations Cultural Heritage: Laws, Policy and Reform*. UBC Press, Vancouver, 2008.

Cairns, Alan. *Citizens Plus: Aboriginal Peoples and the Canadian State*. UBC Press, Vancouver and Toronto, 2000.

Flanagan, Tom. *First Nations? Second Thoughts*. McGill-Queen's University Press, Montreal and Kingston, 2000.

Groves, Robert. *Re-fashioning the Dialogue: Urban Aboriginal Governance in Canada*. Law Commission of Canada and National Association of Friendship Centres, Ottawa, 1999.

Macklem, Patrick et al. *Aboriginal Self-Government: Legal and Constitutional Issues* (RCAP Publications). Minister of Supply and Services, Ottawa, 1995.

Royal Commission on Aboriginal Peoples. *Partners in Confederation: Aboriginal Peoples, Self-Government and the Constitution* (RCAP Publications). Minister of Supply and Services, Ottawa, 1993.

Speaking Truth to Power III – Self-Government: Options and Opportunities. British Columbia Treaty Commission, Vancouver, 2002, http://www.bctreaty.net/files/pdf_documents/truth_3_book.pdf.

C. Reports

Standing Senate Committee on Aboriginal Peoples. *Forging New Relationships: Aboriginal Governance in Canada*. February 2000, http://www.parl.gc.ca/36/2/parlbus/commbus/senate/com-e/ABOR-E/REP-E/rep03feb00-e.htm.

D. Articles

Abele, Frances, and Michael Smith. "Four Pathways to Aboriginal Self-Government in Canada." *American Review of Canadian Studies*, Vol. 36, 2006.

Dalton, Jennifer E. "Aboriginal Self-Determination in Canada: Protections Afforded by the Judiciary and Government." *Canadian Journal of Law and Society*, Vol. 21, 2006.

Dickson, Timothy. "Self-Government by Side Agreement?" *McGill Law Journal*, Vol. 49, 2004.

Doerr, Audrey. "Building New Orders of Government – The Future of Aboriginal Self-Government." *Canadian Public Administration*, Vol. 40, 1997.

"Flanagan and Cairns on Aboriginal Policy." *Policy Options*, Vol. 22, 2001.

Hogg, Peter, and Mary Ellen Turpel. "Implementing Aboriginal Self-Government: Constitutional and Jurisdictional Issues." *Canadian Bar Review*, Vol. 74, 1995.

Manderscheid, Don J. "First Nations and Self-Government: A Matter of Trust." *Canadian Journal of Law and Society*, Vol. 22, 2007.

McNeil, Kent. "Aboriginal Governments and the Canadian Charter of Rights and Freedoms." Research paper prepared for the Royal Commission on Aboriginal Peoples, 1996, http://www.ohlj.ca/archive/articles/34_1_mcneil.pdf.

Pelletier, Benoît. "Vers un troisième ordre de gouvernement au Canada?" *Policy Options*, Vol. 18, 1997.

Sanders, Douglas E. "'We Intend To Live Here Forever': A Primer on the Nisga'a Treaty." *University of British Columbia Law Review*, Vol. 33, 1999.

Schuurman, Hedda. "The Concept of Community and the Challenge of Self-Government." In Colin Scott, ed., *Aboriginal Autonomy and Development in Northern Québec and Labrador*. UBC Press, Vancouver, 2001.